

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF INDIANA
SOUTH BEND DIVISION**

Dwyer Instruments, Inc.,)	
)	
Plaintiff,)	Case No.: 3:09-cv-00010-TLS-CAN
)	
v.)	Hon. Judge Theresa Springmann
)	
SENSOCON, INC. and)	Magistrate Judge Nuechterlein
TONY E. KOHL,)	
)	
Defendants.)	

DECLARATION OF JAMES T. BERGER

I, James T. Berger, declare and state as follows:

1. On July 14, 2010, I provided my "Report of James T. Berger" ("report") to Dwyer Instruments, Inc. ("Dwyer"). In my report, I summarized my findings of an Internet survey I developed and had a third-party conduct to determine whether a relevant sample of consumers who purchase differential pressure gauge products or who intend to purchase differential pressure gauge products are able to identify and differentiate whether assorted differential pressure gauge products emanate from the same or different sources.

2. On July 23, 2010, I provided my "Amended Report of James T. Berger" ("amended report") to Dwyer. My amended report simply provided new Exhibits C and D and a summary of Exhibit D. Exhibits C and D are a compact disc containing the data used to prepare my report and a letter from Suburban Marketing Research indicating they completed their validation of my study on differential pressure gauges, respectively. Section VII of my amended report, entitled "Validation," summarizes the validation completed by Suburban Marketing Research and detailed in Exhibit D.



3. Copies of my amendment report and Exhibits A, B, and D are attached hereto. In addition, a copy of Exhibit C, which is a disc containing all data from the surveys detailed in my amended report, is being filed manually with this Court.

4. In developing the surveys detailed in my amended report, I provided the respondents with the opportunity to select "Don't Know." For each of the questions in Surveys B1 and B2, at least 50% of the respondents answered "Don't Know," indicating that respondents were comfortable answering "Don't Know" if they did not know the answer to the question.

5. In developing the surveys detailed in my amended report, I also implemented controls, such as, presenting additional images of non-Dwyer and non-Sensocon differential pressure gauges, asking a variety of differently-worded questions, varying the order of presentment of the images throughout the surveys, and utilizing the first 50 interviews from each survey as a pilot study to determine if the results were valid and reliable.

6. Participants in the surveys summarized in my amended report did not know the purpose of the survey, nor did they know the sponsor of the survey. Although I developed and designed the survey, a random sample of adults was developed by e-Rewards, Inc. and the survey was administered by Precision Research, Inc. Neither e-Rewards, Inc., nor Precision Research, Inc. knew the purpose or sponsor of the survey. The survey was therefore a double-blind survey.

7. In my amended report, I summarize the survey results by tabulating the number of respondents that singled out only the Dwyer and Sensocn gauges. (Dwyer Ex. T pp. 10-11). In particular, in Survey B1, between 22% and 32% of the respondents singled out only the Dwyer and Sensocn gauges for each of the questions and, in Survey B2, between 17% and 23% of the respondents singled out only the Dwyer and Sensocn gauges for each of the questions. (*Id.* at

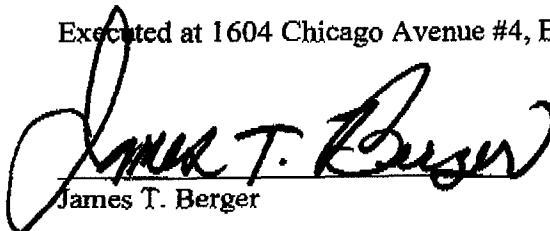
pp. 10-11). The full set of survey results for Surveys B1 and B2 includes two large spreadsheets with a tremendous amount of data. Beyond the data included in my report, for Survey B1, there was no combination of responses that was selected by more than 5% of the respondents for any of the questions. Additionally, for one question in Survey B2, one combination of responses was selected by about 10% of the respondents, but no other question had a response rate for any combination of responses that was selected by more than 5% of the respondents.

8. I have been developing surveys such as the one developed for Dwyer and testifying as an expert in intellectual property surveys with respect to brands and trademarks for over 10 years. Validating about 10-15% of the respondents in an Internet survey is commonplace and is accepted as providing a proper validation. The main reason to validate a survey is to verify the participants actually took the survey. When conducting an Internet survey, there really is no need to verify the participant actually took the survey because someone had to be sitting at the computer entering answers to the survey questions. It is therefore questionable in the industry whether validation is necessary for an Internet survey.

9. If called upon to testify, I could and would competently testify from my own knowledge, information, and belief as to the procedures, data, and results contained in my report and amended report.

10. In accordance with 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed at 1604 Chicago Avenue #4, Evanston, IL 60201 on May 19, 2011,



James T. Berger

Amended Report of James T. Berger

**Dwyer Instruments, Inc. v.
Sensocon, Inc. and Tony E. Kohl**



Amended Report of James T. Berger

Dwyer Instruments, Inc. v. Sensocon, Inc. and Tony E. Kohl

I. INTRODUCTION

1. This report is an amended version of my July 14, 2010 report on an Internet research study I conducted to determine whether a relevant sample of consumers who purchase differential pressure gauge products or who intend to purchase differential pressure gauge products are able to identify and differentiate whether assorted differential pressure gauge products emanate from the same or different sources. This report includes the research hypothesis, research design, official survey protocols, officially tabulated results of the survey, a validation report, my interpretation and my opinions. This amended report contains an updated validation summary. In the validating process of this Internet study, the company doing the validation found a small number of participants who took the study but were improperly screened. Those 11 persons were eliminated from the study and replaced. Because of this, the study was re-tabulated and the results of the new tabulation are reported in this amended report.

There is a new **EXHIBIT C** and a new **EXHIBIT D** in this amended version.

II. PERSONAL BACKGROUND

2. Present Activities. I have been a faculty member at Roosevelt University since 2001 and a faculty member at Northwestern University from 1986 through 2005. I am also Principal of James T. Berger/Market Strategies, a strategic marketing communications and consulting firm. At Northwestern University, I taught courses in Principles of Marketing, Integrated Marketing Communications, Strategic Marketing, and Introduction to Public Relations. At Roosevelt University's Walter E. Heller College of Business Administration, I currently teach courses in Advertising, Consumer Behavior, Personal Selling and Sales Management, Global Marketing, Marketing Management, and Marketing in Theory and Practice. I have previously taught marketing related courses at Northwestern University's Kellogg Graduate School of Management, DePaul University's College of Commerce, The Lake Forest Graduate School of Management, and the University of Illinois at Chicago. I have authored many articles dealing with marketing and other business related issues. A copy of my curriculum vitae, summary of my teaching experience, publications list, billing rate and testimony experience, are attached to this report as **EXHIBIT A**.
3. Education. I received a Master's Degree in Business Administration in 1978 from the University of Chicago Graduate School of Business, with

concentrations in marketing and finance. I also received a Master of Science Degree in Journalism from Northwestern University's Medill School of Journalism in 1965, with concentrations in the news and editorial sequence, and a Bachelor of Arts Degree with a major in journalism from the University of Michigan in 1964.

4. Prior Experience. I have previously worked as an Account Supervisor for two Downtown Chicago advertising agencies, as Vice President and Director of Public Relations for another Chicago advertising agency and as Account Supervisor for two major Chicago public relations agencies. I have had my own marketing communications consulting practice for more than 20 years and have been involved in marketing consulting and survey work for law firms for nearly 10 years.
5. Market Research/Trademark Experience. I have extensive market research experience, including quantitative and qualitative survey research, and have performed both in-person, telephone and Internet-based interviewing in various industries with respect to brands and trademarks. I have also designed and coordinated market research programs, including drafting questionnaires, performing and supervising personal interviews, organizing focus groups, tabulating and evaluating data, and preparing research reports. In addition, I was a presenter at a session in March 2003, before the Minnesota State Bar Association entitled "The Effective Use of Survey Experts and Evidence in Trademark Cases." Furthermore, I have authored eight articles on intellectual

property trademark/secondary meaning surveys for *INTELLECTUAL PROPERTY TODAY* Magazine: (1) "10 Frequently Asked Questions About Intellectual Property Surveys," which appeared in the August 2003, issue; (2) "Swimming in Shark-Infested Waters," which appeared in the June 2004, issue; (3) "Creativity Key to Executing Toughest IP Survey Projects," which appeared in the July 2005 issue; (4) "What IP Attorneys Should Know About Expectations and Costs for Survey Research," which appeared in the April 2006, issue; (5) "10 Easy Ways to Blow Away A Survey," which appeared in the January 2007, issue and, (6) *The Power and Perils of Internet Surveys* in the August 2007 issue; (7) *How to Do an IP Survey Without Giving Away the Store*, in the April 2008 issue; (8) *New Challenges to the IP Survey Process*, in the July 2009 issue, and (9) *Introducing the Internet/Telephone "Hybrid" Survey*, in the July 2010 issue. I also do extensive freelance writing for magazines and other publications on a variety of business-related topics including marketing, marketing communications and trademarks. Early in my career, I worked as Account Executive and later Account Supervisor at The Public Relations Board, Inc. Chicago. In this capacity, I developed a number of surveys and was responsible for compiling the MUSIC U.S.A. annual statistical data of the music industry and music participation in the United States.

6. Trademark Testifying Experience. I have testified as an expert in strategic marketing, marketing communications and intellectual property surveys with respect to brands and trademarks. Over the last 10 years, I was

retained as an expert in four dozen or more lawsuits. In many of those lawsuits, the issue was some form of trademark/trade dress infringement. In addition, I was retained as an expert in cases involving efforts to prove or disprove whether or not names were perceived to be generic. In many of those lawsuits I have given deposition testimony. I also have given courtroom testimony on several occasions.

III. RETENTION

7. I was retained in this matter by Barnes & Thornburg *LLP*, in its capacity as counsel for the plaintiff. In addition to the findings of my survey, I relied on the following documents:

- FIRST AMENDED COMPLAINT and Exhibits dated 1/12/10.
- DEFENDANTS' ANSWER AND AFFIRMATIVE DEFENSES AND COUNTERCLAIMS TO PLAINTIFF'S FIRST AMENDED COMPLAINT 1/25/10.
- PHYSICAL DIFFERENTIAL PRESSURE GAUGES FROM WHICH IMAGES WERE PRODUCED.

IV. HYPOTHESIS AND RATIONALE

8. Hypothesis and rationale. The hypothesis and rationale that I attempted to test in the market research is as follows: When presented with an array of images of the faces of differential pressure gauge products, those who purchase such products will express a likelihood of confusion between the plaintiff's and defendant's products. Significant percentages of members of the relevant target market will believe the plaintiff's and

defendant's products were put out by the same company, were associated, affiliated, sponsored and/or owned by the companies who put out products of either or both plaintiff or defendant.

V. RESEARCH DESIGN

10. In the present matter, counsel for the plaintiff asked me to design and implement an Internet survey directed to: adults, age 18 and over, who have (1) purchased a differential pressure gauge product within the last three years or (2) who intend to purchase in the next 12 months a differential pressure gauge product. There were two cells to the survey (See **EXHIBIT B**). The first cell — Survey B1 — used the image of the Sensocon (Model #S2000-00), which was the original differential pressure gauge product that had a similar horizontal line look found in the Dwyer product. The second cell — Survey B2 — was identical to Survey B1 with the exception of Sensocon Model # S2000-0D, which substituted a diamond-shaped design for the horizontal lines present in Model # S2000-00. These horizontal lines are part of the registered trade dress of the Dwyer product. The survey was administered to a random sample of adults developed by e-Rewards, Inc., the consumer panel vendor retained by Precision Research, Inc., Des Plaines, IL. There was neither gender nor geographic quotas for the study. Men and women living throughout the United States had an equal chance of being selected. Precision Research, Inc. was the general contractor for this study. The panel used was provided by Dallas-based e-Rewards, Inc.

11. The research began with a meeting, at Precision Research, Inc., where James T. Berger, the survey expert, read and explained survey protocols to Ms. Lori Tomoleoni, Precision Research project manager. Precision then contracted with e-Rewards to develop the Internet survey protocols. A PDF version of the action survey is located at **EXHIBIT B**. The first 50 interviews from each cell constituted a pilot study and once it was clear the survey produced valid and reliable results, the results of the pilot survey were then included in the actual survey. In total, there were 202 participants in Survey B1 and there were 207 participants in Survey B2. In the screening portion of the survey, in order to qualify the respondent had:

- To be 18 years old or over.
- Had to have purchased a differential pressure gauge product within the last three years.
- OR, intended to purchase a differential pressure gauge product in the next 12 months.
- Did not — nor had anybody in the household — work for a marketing research firm, an advertising agency, or any industrial distributor, wholesaler or retailer that sells differential pressure gauge products.
- Was wearing eyeglasses if such devices were needed for normal viewing.

They were then presented with a five-product array that included the names of the products and were further identified

by Letters A, B, C, D, and E. Throughout the survey the order of the products were varied.

The products were:

- A. WIKA
- B. AIRFLOW
- C. ASHCROFT
- D. MAGNEHELIC (Dwyer)
- E. SENSOCON

There were four key questions in the survey:

Which, if any, of these products do you believe are put out by the same company? Please mark the letters below. If you don't know, feel free to mark "don't know."

Which, if any, of these products do you believe are produced by companies that are associated with one another? Please mark the letters below. If you don't know, feel free to mark "don't know."

Which, if any, of these products do you believe are produced by companies that are affiliated with one another? Please mark the letters below. If you don't know, feel free to mark "don't know."

Which, if any, of these products do you believe are produced by companies that are sponsored by one another? Please mark the letters below. If you don't know, feel free to mark "don't know."

Which, if any, of these products do you believe are produced by companies that are owned by one another? Please mark the letters below. If you don't know, feel free to mark "don't know."

VI. SURVEY RESULTS

12. In assessing the results of the survey (see **Exhibit C**), the important observation is the relationship between the D product (Dwyer Magnehelic) and the E product (Sensocon). Both the Dwyer (Magnehelic) product and the Sensocon products possess a similar non-functional design element at the bottom of the lens. In Survey B1 the original first generation Sensocon product was tested while in Survey B2 the third generation Sensocon product with the diamond design was used instead of the horizontal lines.

Following are the results of the survey with respect to respondents who singled out D and E in their responses. NOTE: Only surveys that singled out D and E alone are included in this analysis:

SURVEY B 1 (numbers and percentage of those citing D and E) N=202

Put Out by: 50 respondents -----	25%
Associated: 65 respondents -----	32%
Affiliated: 63 respondents -----	31%
Sponsored by: 44 respondents -----	22%
Owned by: 56 respondents -----	28%

SURVEY B 2 (numbers and percentage of those citing D and E)
N=207

Put Out by: 40 respondents ----- 19%

Associated: 48 respondents ----- 23%

Affiliated: 41 respondents ----- 20%

Sponsored by: 36 respondents ----- 17%

Owned by: 39 respondents ----- 19%

VII. VALIDATION

13. In scientific surveys such as this one, to insure that people who said they participated in the survey actually participated, an independent research company was retained to validate the survey. The validation process includes taking a representative sample of those who completed the interview, re-contacting them and verifying their participation. In this survey, Suburban Market Research, Inc., of Paramus, N.J., was given those surveys where respondents provided their names and phone numbers. They made one attempt to contact all 128 participants who provided names and phone numbers. Suburban Marketing Research reported that 51 respondents verified they had completed the survey. Eleven respondents reported that had not purchased a differential pressure gauge product and did not expect to. These 11 interviews were deleted from the survey and replaced. The validation report can be found in **EXHIBIT D**. In his report, William C. Bartlett, president of Suburban Marketing Research verified, "We are satisfied the survey was administered correctly."

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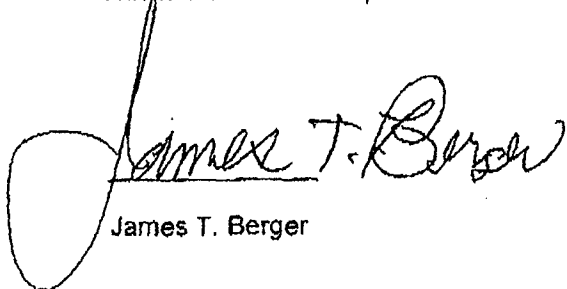
JAMESBERGER

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VIII. CONCLUSIONS AND OPINIONS

14. Survey B1 results evidenced a high likelihood of confusion between the first generation Sensocor product and the Magnehelic (Dwyer) product. Both products possess nearly identical non-functional trade dress in the form of horizontal lines at the bottom of the lens. In Survey B2 with the Sensocor non-functional trade dress in the form of diamonds instead of horizontal lines, there was also evidenced a high degree of likelihood of confusion albeit less than the levels evidenced in Survey B1.

In my opinion, based on the results of the survey, Sensocor is trading on the trade dress of Dwyer's product (Magnehelic) and is causing a likelihood of confusion in the marketplace.


James T. Berger

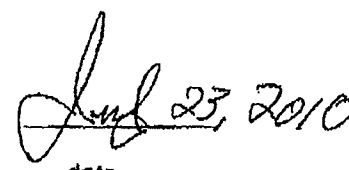

date

EXHIBIT A

CURRICULUM VITAE

James T. Berger

*IP Litigation Services & Surveys: Trademarks/Brands/Marketing;
Marketing Consultant; Free-Lance Writer; University Instructor*

1604 Chicago Avenue - Suite 4, Evanston, IL 60201

847-328-9633 Fax 847-328-9638

E-mail: jberger@jamesberger.net WEB: www.jamesberger.net

EDUCATION

MBA University of Chicago, Graduate School of Business, concentrations in marketing and finance.

MS Northwestern University, Medill School of Journalism, concentration in news/editorial sequence.

BA University of Michigan, College of Literature, Science and the Arts, major in journalism.

PROFESSIONAL EXPERIENCE

MARKET STRATEGIES, Chicago, Northbrook and Evanston, IL (1983 to present) Principal of this marketing services/consulting firm, which specializes in:

- Strategic marketing planning including creating written market plan documents.
- Implementing marketing programs.
- Integrated marketing communications services including advertising, public relations, sales promotion, direct mail.
- Project management including building and directing creative and production teams to execute marketing plans and specific tasks.
- Helping clients develop and maintain business relationships.

As a "hands-on" consultant, I help clients develop strategies and programs as well as assist in the implementation. The firm concentrates on business-to-business marketing with specific focus on financial services, accounting and consulting services, commercial real estate, eldercare, office technology, manufacturing and distribution. Concurrent with the management of Market Strategies, I became involved with:

THE INVESTOR RELATIONS COMPANY, Northbrook, IL (June 1998 to July 1999) As Senior Vice President, I was involved in the full array of Investor Relations activities including account management; working with the financial press including magazines, newsletter and wire services; direct contacts with analysts and brokers; and writing of financial news releases, quarterly and annual reports, profiles and fact sheets.

THE FINANCIAL RELATIONS BOARD, INC., Chicago, IL (April 1997 to June 1998) As an Account Manager for this large, national investor relations firm, I:

- Coordinated account service, market intelligence and media activities.
- Created investment profiles and fact sheets; developed and wrote annual reports, quarterly earnings releases and other news releases.

STERN WALTERS/EARLE LUDGIN, Inc., Chicago, IL (1980-83) Vice President -- Account Supervisor:

- Account manager for Associates Commercial Corporation account, a commercial finance company with advertising billings in excess of \$7 million.
- Account manager for Sears, Roebuck & Co. Contract Sales Group division.
- Developed marketing strategies, planning and account management.

THE WITTLER COMPANY, Inc., Chicago, IL (1976-80) Vice President -- Account Supervisor:

- Created and implemented marketing strategies and programs.
- Clients involved in office products and services, data systems, micrographics, commercial real estate, automotive aftermarket and financial services.

BRAND ADVERTISING, Inc., Chicago, IL (1973-76) Vice President -- Director of Public Relations:

- Responsible for firm's public relations profit center.
- Programming, planning, client and media contact, writing and editing.
- Active in new business development.
- Clients involved in automotive aftermarket, industrial equipment, agriculture.

GOLIN/HARRIS COMMUNICATIONS, Inc., Chicago, IL (1971-73) Account Supervisor for this large public relations agency:

- Worked on McDonald's restaurants, agency's major account.
- Created national model awareness program for Chicagoland market.
- Managed McDonald's involvement in public affairs, ecology, energy conservation, labor relations and the inner city.
- Involved in financial relations and marketing-support activities.

EARLY EXPERIENCE

Began career as copy, wire and make-up editor for CHICAGO DAILY NEWS. Moved into corporate public relations as editor of an employee publication for ILLINOIS BELL TELEPHONE COMPANY in Chicago and Springfield, IL. As a publicity specialist for MORTON INTERNATIONAL INC., I became involved in the consumer, industrial, institutional, automotive and agricultural markets. My first experience in agency public relations was with THE PUBLIC RELATIONS BOARD, INC., (now known as PORTER NOVELLI), first as an account executive and later as an account supervisor.

PROFESSIONAL MEDIA EXPERIENCE

- Copy Editor for *Chicago Daily News*, Chicago, IL
- Editor and General Assignment Reporter for *The Patriot Ledger*, Quincy, MA
- Correspondent for *United Press International* in Ann Arbor, MI
- Part-time general assignment reporter for *Pioneer Press* newspapers, Wilmette and Highland Park, IL
- Free-lance columnist for *Homelife* section of *Chicago Sun Times*

ARTICLES PUBLISHED

Intellectual property litigation-related articles:

- "10 Frequently Asked Questions about Intellectual Property Litigation Surveys" published in the August 2003 issue of *Intellectual Property Today*.
- "Swimming in Shark-Infested Waters," published in June 2004 issue of *Intellectual Property Today*.
- "Creativity Key to Executing Toughest IP Survey Projects," published in July 2005

- issue of *Intellectual Property Today*.
- “What IP Attorneys Should Know About Expectations and Costs For Survey Research,” published in April 2006 issue of *Intellectual Property Today*.
- “10 Easy Ways to Blow Away a Survey,” published in the January 2007 issue of *Intellectual Property Today*.
- “The Power and Perils of the Internet Surveys,” published in August 2007 issue of *Intellectual Property Today*.
- “How to do an IP Survey without Giving Away the Store,” published in April 2008 issue of *Intellectual Property Today*.
- “New Challenges to the IP Survey Process,” published in the July 2009 issue of *Intellectual Property Today*.
- “Introducing the Internet/Telephone “Hybrid” Survey,” published in the July, 2010 issue of *Intellectual Property Today*.

Marketing communications-related articles published in:

- *Crain's Chicago Business*, a weekly business publication.
- *Services Marketing Today*, published by the American Marketing Association.
- *Talking To The Boss*, a weekly business publication.
- University of Chicago Graduate School of Business alumni magazine.
- *Your Business*, a quarterly magazine published for GE Capital by Baumer Financial Publishing, Chicago.
- *Independent Business*, a monthly magazine published by Group IV Communications, Thousand Oaks, CA.

Business-related articles in published in:

- *Active Times*
- *Business Life*
- *Office Dealer*
- *Office System*
- *Chicago Sun-Times*
- *Dow Jones Business Employment Weekly*
- *Texas Realtor*
- *Multifamily Executive*
- *Office and Industrial Properties*
- *Real Estate Profiles*
- *Kiwanis Magazine*
- *The Rotarian*
- *Executive Decision*
- *Home Business Journal*
- *Business Sense*
- *Real Estate Chicago*
- *American Fitness*
- *Area Development*
- *Real Estate Chicago*
- *Grid*
- *Plants, Sites & Parks*
- *Journal of Property Management*
- *Commercial Investment Real Estate*

- *Crain's Chicago Business*
- *Tax Credit Advisor*

TEACHING EXPERIENCE

NORTHWESTERN UNIVERSITY

Kellogg Graduate School of Management

- Business Marketing -- A graduate level course focusing on industrial and business-to-business marketing principles and cases.

School of Continuing Studies

- Principles of Marketing -- An introductory survey course that covers basic principles including market research.
- Strategic Marketing: Cases in Decision-Making -- A more advanced, case-method course.
- Business-to-Business Marketing -- A course that explores the differences between consumer marketing and business marketing.
- Introduction to Public Relations -- An introductory course that focuses on the various facets of public relations and publicity.
- Integrated Marketing Communications -- A course that I created that focuses on the synergies of coordinating all the promotional blend elements.

ROOSEVELT UNIVERSITY

Walter E. Heller College of Business Administration

Nominated for ADJUNCT FACULTY PERSON OF THE YEAR AWARD in 2005/06.

- Marketing in Theory and Practice -- A graduate level course that covers basic principles of marketing and market research.
- Selling and Sales Management -- An undergraduate course focusing on consultative selling and the management of the sale force.
- Consumer Behavior -- An undergraduate course that explored the how's and why's of consumer purchasing.
- Introduction to Advertising -- An undergraduate course focusing on advertising, sales promotion and integrated marketing communications.
- International Marketing Analysis -- A graduate level course that probes how foreign companies market in the United States and how domestic companies market abroad.

UNIVERSITY OF ILLINOIS AT CHICAGO

College of Business Administration

- Advertising and Sales Promotion -- An undergraduate course that introduces students to the basic principles of advertising.
- New Product Management -- An undergraduate course focusing on the new product development and marketing process.

DE PAUL UNIVERSITY

College of Commerce -- Graduate Level

- Marketing Strategy -- A case-oriented course focusing on decision-making.
- Industrial Marketing -- A course utilizing cases and text that concentrates on industrial and business-to-business marketing.

College of Commerce -- Undergraduate Level

- Principles of Marketing -- A basic, survey course that introduces all the College of Commerce students to marketing.
- Marketing Management -- A second-tier course that uses cases to illustrate basic marketing principles.

- Introduction to Advertising -- A course for marketing majors that introduces students to basic advertising.
- Industrial Marketing -- A course for marketing majors focusing on industrial and business-to-business marketing.
- Personal Selling -- A course for marketing majors that concentrates on consultative selling.

LAKE FOREST GRADUATE SCHOOL OF MANAGEMENT

- Marketing Management -- An executive graduate-level course that uses cases and a major team project to introduce students to the principles of marketing and marketing management.

CONTINUING LEGAL EDUCATION SEMINAR

- Presented "Intellectual Property Litigation Surveys ... Best Practices" before the Chicago and Milwaukee Bar Association as well as two Chicago law firms. The program has been approved for continuing legal education credit by both the Chicago and Milwaukee Bar Associations.

MINNESOTA STATE BAR ASSOCIATION

Continuing Legal Education

- Faculty member for "The Effective Use of Survey Experts and Evidence in Trademark Cases." Minneapolis State Bar Association, Minneapolis, MN, March 7, 2002.

MEMBER - INTERNATIONAL TRADEMARK ASSOCIATION

LITIGATION EXPERIENCE

I have testified in court in the following cases: (side who retained me in **BOLD**)

Euromarket Designs, Inc., dba Crate & Barrel Limited v. Miriam Peters and Point Blank Multimedia, testified in U.S. District Court, Chicago, August 3, 2000.

Heartland Corporation v. Don Siphers et al., testified at U.S. District Court, Topeka, KS, on June 25, 2002.

St. Luke's Eye Center v. James Sanderson et al, testified at trial at U.S. District Court in Tampa, FL, on June 7, 2007

Scafiddi Motors v. General Motors Corporation, testified before State of Wisconsin Division of Hearings and Appeals, Madison, WI, on April 4, 2008.

University of Kansas et al v. Larry Sinks et al, testified at trial at U.S. District Court in Topeka, KS, on July 8, 2008.

Vande Hey Brantmeier, Chevrolet, Buick, Pontiac, Inc. v. General Motors Corporation, testified before State of Wisconsin Division of Hearings and Appeals, Jan. 23, 2009.

Just Enterprises, Inc. v. (888) Justice, Inc. on June 17, 2008.

Mini Melts, Inc. v. Reckitt Benckiser, Inc. (jury trial) on June 24, 2009.

Mini Melts, Inc. v. **Reckitt Benckiser, Inc.** (bench trial) on June 25, 2009.

Fair Isaac Corporation et al v. Experian, et al, on November 6, 2009.

I have been deposed in the following cases: (side who retained me in **BOLD**)

Allan J. DeMars, as Trustee for Weisser Eyecare, Inc., v. **NBD Highland Park**, October 12, 1996.

Black & Decker (U.S.) Inc., Black & Decker Inc., and The Black & Decker Corporation v. Pro-Tech Power Inc., P&F Brother Industrial Corporation and Nu-Way Machinery Corporation, February 5, 1998 And March 5, 1998.

Atlas Electric Devices Co. v. Q-Panel Lab Products Corporation, April 26, 2001.

Motor Werks Partners, L.P. v. BMW of North America, June 11, 2001.

Sparks & Crain v. AT&T and Lucent Technologies, February 18, 2002.

Native American Arts v. Earth Dweller, Ltd., and The Waldron Corporation, April 5, 2002.

Master Tech Products, Inc., v. Prism Enterprises, Inc., September 11, 2002.

Mansfield Plumbing Products L.L.C. v. Mariner Partners, Inc., et al., March 4, 2003.

Horizon Health Services, Inc. v. Allied National, Inc. et al, October 25, 2004.

S&M Nutech, L L.C. v. T.F.H. Publications, Inc., January 16, 2005.

Century 21 Real Estate v. Century Surety Co., March 1, 2005.

Midwest Canvas Corp. v. Nationwide Tarps, Inc., March 17, 2005.

Seed Lighting Design Co. LTD v. Home Depot, Trend Lighting, Corp and Hampton Bay Fan & Lighting Company, July 14, 2005.

Dioptics Medical Products, Inc. v. PR Trading Company D/B/A/ Polar Ray Sunglasses Corporation, August 13, 2005.

True & Dorin Medical Group v. Leavitt Medical Associates, et al, September 10, 2005

Edina Realty v. TheMLSonline.com, Inc., Oct.. 7, 2005.

Kevin Trudeau et al v. George Lanoue et al, November 21, 2005

Dioptics v. PR Trading Company, Feb. 17, 2006.

Wenger Corporation v. The Stadium Chair Company, LLC, June 22, 2006

Cobra Capital v. LaSalle Bank Corporation et al, July 26, 2006

Illinois Tool Works v. Chester Brothers Machined Products, Inc. d/b/a Pneu-Fast, Aug. 15, 2006

Note Family, Inc. v. Vivendi Universal Games, Inc., October 4, 2006

St. Luke's Eye Center v. James Sanderson et al, March 15, 2007

University of Kansas et al v. Larry Sinks et al, May 29, 2007.

St. Luke's Eye Center v. James Sanderson et al, testified at trial at U.S. District Court in Tampa, FL, on June 7, 2007

Just Enterprises, Inc. v. (888) Justice, Inc. on January 11, 2008.

Schneider Saddlery Co., Inc. v. Best Shot Products International LLC on February 6, 2008.

Scaffiddi Motors v. General Motors Corporation on March 3, 2008.

Larin Corporation v. Alltrade, Inc. on March 26, 2008

Mini Melts, Inc. v. Adams Respiratory Operations, Inc. d/b/a Adams Respiratory Therapeutics on March 13, 2008.

Dallas Cowboys Football Club and NFL Properties, LLC v. America's Team Properties, Inc. on April 30, 2008

Mini Melts, Inc. v. Adams Respiratory Operations, Inc. d/b/a Adams Respiratory Therapeutics on November 13, 2008.

Fair Isaac Corporation et al v. Equifax Inc. et al on December 17, 2008.

Vande Hey Brantmeier, Chevrolet, Buick, Pontiac, Inc. v. General Motors Corporation, on January 12, 2009.

WMH Tool Group, Inc. v Woodstock International, Inc., and Grizzly Industrial, Inc. on June 30, 2009.

Atlanta Allergy & Asthma Clinic, P.A. v. Allergy & Asthma of Atlanta, LLC et al, on July 6, 2009.

North Shore Gastroenterology v. North Ohio Gastroenterology on October 15, 2009.

Metso Minerals Industries, Inc. v. FLSmith-Excel Foudry & Machine, Inc. et al, on March 26, 2010.

BILLING RATE (FOR EXPERT WITNESS SERVICES)

\$400 per hour (\$450 for time spent in testimony)

SUPPLEMENT A

*A Compilation of Published Articles
Written by James T. Berger*

DATE	PUBLICATION	ARTICLE TITLE
1998		
Fall	Active Times	Wanted: Mature Workers Who Need Minimal Training, Many Positions Available
Sept-Oct	National Bus Employment Weekly	What's an M.B.A. worth?
Sept-Oct	National Bus Employment Weekly	The Degree Dilemma
November	Chgo Sun Times Business Life	Buying Into Barter
December	Crain's Chicago Business	A Crucial Goal: Increasing Schools' Visibility
Jan-Dec	Writer's Digest	
1999		
January	Business Life	Business is Booming in Executive Temp Industry Gary Canepa / Patty Ancona / Patraick Fortin / Richard Blevins / Nancy Mroz
38744	Real Estate Profiles	Medical Industry Goes Under the Knife
April	Business Life	Will Earning An MBA Pay off Later in Life?
38823	Wall Street Journal	Networking 101
Spring	Business Sense	Building Solid Financial Foundations
June	Business Life	Blueprint for Success
June	Your Business	Building Earnings by Barbara B. Buchholz
June	Small Business Adviser	Tips Could Help You Sell Your Home by Yourself
June	Chgo Sun Times Business Life	X-Termination
July - Aug	American Fitness	Building Solid Foundations
July	Business Life	Expanding Your Horizons
Summer	Your Business	Factoring Takes New Meaning in Today's Global Economy
August	Business Life	Push to Revive Reverse Mortgage
September	Chgo Sun Times Business Life	Opportunities Abound for Older Workers
September	Business Life	Working Into Retirement
September	Kiwanis	10 Easy Ways to Lose a Client
September	Independent Business	Wet and Wild on the West Coast by J. Fisher Park & J. Morgan Park
Fall	Recreation Management	Reversal of Fortune for Reverse Mortgages
September	Active Times	Mortgage Plan Helps Buyers with Bad Credit
September	Chgo Sun Times Homelife	Mortgage Lenders Won't Suffer Despite Market Changes
September	Chgo Sun Times Homelife	Are Stockbrokers and Endangered Species?
November	Business Life	Turning Hobbies Into Profitable Home-Based Businesses
November	Home Business	Prepayment Penalty Offers a Trade-Off for Homeowners
November	Chgo Sun Times Homelife	No Doc Loans Help Self-Employed
17-Dec	Chgo Sun Times Homelife	Entire Year
1999	Commercial Lending Report	
2000		
7-Jan	Chgo Sun Times Homelife	Blacks Still Face 'Predatory Lending' Schemes: study
12-Jan	Chgo Sur: Times Homelife	Home Ownership Rising in Nation, While Equity is Falling
14-Jan	Chgo Sun Times Homelife	New Laws Might Boost Reverse Mortgage's Appeal
16-Jan	Chgo Sun Times Homelife	Banking On Your Home
21-Jan	Chgo Sun Times Homelife	Not All Mortgages Require Buyer to Make a Down Payment

22-Jan	Active Times	Do Banks Protect Your Privacy
28-Jan	Chgo Sun Times Homelife	Legal Foundation Guards Against Mortgage Scams
January	Business Life	WWII Fighting For Bandwidth
January	Recreation Management	Welcome To The Great Outdoors
January	Commercial Lending Report	All Loans Are "Good" When You Make Them
Winter	Business Sense	Grievance Alert
11-Feb	Chgo Sun Times Homelife	Your Portfolio Can Provide Mortgage Down Payment
18-Feb	Chgo Sun Times Homelife	Worried Buyer Can Try An Interest-Rate Option
25-Feb	Chgo Sun Times Homelife	Go For Brokers
Feb-29	Chgo Sun Times Business	Leap Day has It's Benefits
February	Business Life	WWII Fighting For Bandwidth
3-Mar	Chgo Sun Times Homelife	Rising Interest Rates Take Toll on Buyers Mortgages
17-Mar	Chgo Sun Times Homelife	Home Saver Helps Avert Foreclosure
24-Mar	Chgo Sun Times Homelife	Closing On A Home Often Troublesome
31-Mar	Chgo Sun Times Homelife	Web Portal Can Speed Loan Process
March	Recreation Management	If You Build It, They Will Swim
March	Business Life	Consumers Not Ready to Leave Mall Behind
May	Texas Realtor	What's Up With Mortgages?
10 - Oct	Chgo Sun Times Homelife	Fed holds key to stable mortgage rates: experts
29 - Oct	Chgo Sun Times Homelife	Landscaping is a cheap and easy fix
29 - Oct	Chgo Sun Times Homelife	Home offices, pools not worth it
3 - Nov	Chgo Sun Times Homelife	As closing nears, lender wants money for a "hold back"
17 - Nov	Chgo Sun Times Homelife	Fannie Mae helps lending victims
24 - Nov	Chgo Sun Times Homelife	'Tis the season to be wary when seeking a mortgage
1 - Dec	Chgo Sun Times Homelife	Chicago mortgage bank reaches out to immigrants, minorities
3 - Dec	Chgo Sun Times Homelife	Land contract may fail without canceled checks
2001		
January 12	Chgo Sun Times Homelife	Showcase of Homes Offers Vision of Future
19-Jan	Chgo Sun Times Homelife	Failure To Compute
January	Multifamily Executive	Generation Y Hits the Market
January	Multifamily Executive	Peace of Mind - Renter's Insurance Can Protect Property
16-Feb	Chgo Sun Times Homelife	Tailor Made - New Type of Mortgage is Uniquely Designed for Individual Borrowers
February	Bizlife	Grass America Inc: What the Well-Dressed Kitchen is Wearing
March	Real Estate Chicago	Kenosha Casino Nixed
March	Utah Business	Whittling Down the Tax Man
6-Apr	Chgo Sun Times Homelife	Homeowner insurance not enough to cover a home office or business; Protecting the Boss
Spring	Bizhealth	Family Service of the Piedmont
April	Rotarian	Boot Up Soldier!
May	Real Estate Chicago	A Soft Office Market
June	Real Estate Chicago	Lake County Land Squeeze
September	Area Development	Industrial Market
October	Real Estate Chicago	Update at the Glen
Nov-Dec	Commercial Real Estate	Virtual Money
Nov-Dec	Real Estate Chicago	Abbott Leases Big
2002		
February	Area Development	Property Protection Comes of Age
March	Texas Realtor	On Loan
March	Area Development Magazine	On the Fast Track to Freer Trade?

March	Real Estate Chicago	City Park in Home Stretch
April	Real Estate Chicago	Recovery Ahead?
April	Crain's Chicago Business	Trusts a Must for the Moneyed;
May	Real Estate Chicago	Variety of Plans Offer Tax Breaks, Other Incentives
June	Area Development	The Mallinckrodt Property
July	Area Development	Welcoming Recovery
July	PS&P	Assessing the Post-War Economy
July-Aug	Journal of Property Management	Site Selection Shake Up
September	PS&P	Flower Power (Interior Landscape)
October	Bizlife	Avoiding Economic Espionage
		The Man Behind the High Point Transportation
2003		
2003/2004	PS&P	
August	Wiglaf Journal	Getting Lost on the World Wide Web
August	Intellectual Property Today	10 Frequently Asked Questions about Intellectual Property Litigation Surveys
2004		
May	Plants Sites & Parks	Milwaukee on the Grow
June	Intellectual Property Today	Swimming in Shark-Infested Waters
July	Plants Sites & Parks	Electronics Industry on the Fast Track
September	Wiring Harness News	Using Customer Service as a Competitive Edge
November	Plants Sites & Parks	U.S. Economic Recovery Spurs Industrial Park Growth in Mexico
November	Intellectual Property Today	Getting the Most Value Out of Your Survey Expert
2005		
January/February	Executive Decision	On The Job With "The Apprentice"
March	The Wiglaf Journal	Why Chicago Is Bill Rancie's Kind of Town
April	The Wiglaf Journal	The Decline and Fall of the AT&T empire — Marketing Myopia Revisited
May	Executive Decision	10 Easy Ways to Lose a Customer
June	The Wiglaf Journal	Secrets of the Best Rainmakers
July	Intellectual Property Today	Converting Productivity to Profitability
August	The Wiglaf Journal	Creativity Key to Executing Toughest IP Survey Projects
		What's In a Name?
2006		
January	The Wiglaf Journal	Thoughts on Relationship Marketing
January/February	Executive Decision	A Matter of Survival:
February	The Wiglaf Journal	CEOs need to commit to Lifelong Learning
March	The Wiglaf Journal	Peeling the Customer Loyalty Onion
March/April	Executive Decision	Creating "Monopolies" from Customer Value Propositions
April	Intellectual Property Today	The Rich Get Richer
May/June	Executive Decision	What IP Attorneys Should Know Expect & Costs for Survey Research
July/ August	Executive Decision	All The Right Moves
September	The Wiglaf Journal	Strategies and Tactics for Corporate Relocations
September/October	Executive Decision	A New Life for ABLs. Strong Economy and Lots of Available
December	Tax Credit Advisor	Cash Fuel Asset-Based Lending Boom
		Integrated Marketing Environment Putting New Pressure on Sales Management,
		All Banks are not created Equal
		Sponsors "Brand" Housing Credit Properties

2007		
January	Intellectual Property Today WebsiteRevamp.org	10 Easy Ways to Blow Away A Survey Lost on The Web Multifamily Realtors See Benefits of Branding in Driving Internet Sales Bridgeport Historic Rehabilitation Project Helping to Transform Downtown Cover Story: AMLi'S Secret Formula – All the Ingredients for Sophistication Spotlights: Executive – No. 1 Cheerleader – Mutz Has Spirit and Vision Management – Taking Full Advantage.– Technology Provides a Competitive Edge Marketing – Brand Loyalty – AMLi Markets Through its Brand Training – Pursuit of Excellence – Training Helps AMLi Reach Goals On Site – Know the Facts – AMLi Serves through Information
January	WebsiteRevamp.org	
January	Tax Credit Advisor	
January/February	MultiFamily Pro	
	MultiFamily Pro	
	MultiFamily Pro	
	MultiFamily Pro	
	MultiFamily Pro	
	MultiFamily Pro	
February	The Wiglaf Journal	The "iPhone" Brouhaha Different Actions, Tactics can Foster Quicker, Effective Lease- Up of New Tax-Credit Properties Don't Segment Markets — "Hire" the Product The Challenge Of Building A Global Workplace Community Cover Story: Place Properties Is The Place – Welcome to the World of Student-Friendly College Housing Spotlights: Executive – Nightmare Interupus – Phillips Filled a Student Housing Need Management – An Engaged Audience – Ratchford Attracts Generation Y with Technology Marketing – Hitting the Target – Nix and Dunton Market to Distinct Groups Training – Gaining an Edge – Wolff Directs the Management Team On-Site – Two-Sided Approach – Place Focuses Both On and Off Campus Reducing Tenant "Churn" Essential for Successful Tax Credit Properties Industry Participants Suggest Ways to Trim Construction Operating Costs A New Way to Segment B-T-B Markets — Put Your Product to Work Adding Green To The Bottom Line The Difficulty of Developing Profitable and Unique Sales Promotions Market Studies Remain Key for Determining Feasibility of Proposed LIHTC Projects The Perils of Using the Internet for Surveys Is the Private Life for You? More Private Companies Are Opting To Go Private How to Make Your E-Mail Marketing More Effective
March	Tax Credit Advisor	
March	The Wiglaf Journal	
March/April	Executive Decision	
March/April	MultiFamily Pro	
	MultiFamily Pro	
	MultiFamily Pro	
	MultiFamily Pro	
	MultiFamily Pro	
	MultiFamily Pro	
April	Tax Credit Advisor	
May	Tax Credit Advisor	
May	The Wiglaf Journal	
May/June	Executive Decision	
June	The Wiglaf Journal	
June	Tax Credit Advisor	
July	The Wiglaf Journal	
July/August	Executive Decision	
August	The Wiglaf Journal	
August	Tax Credit Advisor	Affordable Rental Housing Development is Becoming Increasingly "Green"
August	Intellectual Property Today	The Power and Perils of Internet Surveys Oregon Family Development Incorporates Variety of 'Green' Features HR Help for the Entrepreneur Ease Up on Sales Button for New Ventures
August	Tax Credit Advisor	
September	The Wiglaf Journal	
October	The Wiglaf Journal	

October	Tax Credit Advisor	Robust Population, Job Growth Favor Development Phoenix Area, But Condo Overhand, New Production Are Issues
November	Tax Credit Advisor	Baltimore Area Marked by High Demand for Additional Affordable Housing
December	Tax Credit Advisor	Pittsburgh Market Has Strong Demand for Affordable Housing
December 2008	The Wiglaf Journal	Despite Sluggish Economy To Brand ...or NOT to Brand New Products
January	Tax Credit Advisor	Milwaukee's Economy on the Grow; Strong Demand for Affordable Housing
January	The Wiglaf Journal	Marketing Lessons from Hollywood
January	The Wiglaf Journal	"Top 100 Brands" Quiz
February	Tax Credit Advisor	Vibrant Seattle Economy Spurs Demand for Affordable Housing
March/April	Executive Decision	In Whom do we Trust? The Movement for Greater Accountability and Disclosure
March	The Wiglaf Journal	Looking Positively at the "R" Word
March	The Wiglaf Journal	Adding Bite to your E-Mails
April	Tax Credit Advisor	Cleveland's Perfect Storm of Rising Foreclosures
April	Intellectual Property Today	How to do an IP Survey without Giving Away the Store
April	The Wiglaf Journal	B-2-B Trademarks and Brands – A Slippery Slope
April	The Wiglaf Journal	Want to Know Who Sarah Marshall is?
May	Tax Credit Advisor	Atlanta Economy Slowing But Still Growing; Tax Credit Housing Challenged
June	The Wiglaf Journal	A New Business Primer for Growing Organizations Milwaukee's Economy on the Grow; Strong Demand for Affordable Housing
July	Tax Credit Advisor	New Desire Housing Project Rises from Devastation of Katrina
August	Tax Credit Advisor	What's a Brand Worth Anyway?
September	The Wiglaf Journal	Chicago Has Vibrant Affordable Housing Market
September	Tax Credit Advisor	Starbucks Discovers Marketing Myopia
November	The Wiglaf Journal	Portland Economy, Multifamily Housing Easing into "Soft Landing"
December	Tax Credit Advisor	Musing from a Marketer on the Economic Crisis
December 2009	The Wiglaf Journal	Empathy — The Missing Element in Relationship Management
January	The Wiglaf Journal	MarketSketch: Houston Area Still Attractive Market for LIHTC Development
February	Tax Credit Advisor	The "Dark Side" of Entrepreneurship
March	The Wiglaf Journal	Recession Takes Toll on Brand Values
April	The Wiglaf Journal	Opportunities Starting to Sprout as Entrepreneurs Pick Up Pieces from Shattered Economy
April	The Wiglaf Journal	Two Harvard Experts Provide Perspective on Building Entrepreneurial Businesses In Troubled Times
May	The Wiglaf Journal	Everything You Wanted to Know About Multi-Family Energy Audits
July	Tax Credit Advisor	New Paradigms Abound
July	The Wiglaf Journal	
June/July	Area Development	Military Bases as Economic Development Magnets
August	The Wiglaf Journal	Trying to Put the Toothpaste Back into the Tube
September	The Wiglaf Journal	Global Marketers Unclear About Obama's Direction
October	The Wiglaf Journal	Marketers Find Gold on Old Brand Junk Heap

EXHIBIT B

PDF versions of Survey B1 and Survey B2

Default Question Block

Before we start the interview, please answer the next few questions to see if you qualify.

Block 1

Are you 18 years old or older?

- ☐ Yes
☐ No

Block 2

Have you purchased a differential pressure gauge product within the last three years?

- ☐ Yes
☐ No

Block 3

Do you anticipate purchasing a differential pressure gauge product in the next 12 months?

- ☐ Yes
☐ No

Block 4

Do you — or anyone in your household — work for...

	Yes	No
A marketing research firm	<input type="radio"/>	<input type="radio"/>
An advertising agency	<input type="radio"/>	<input type="radio"/>
Any industrial distributor, wholesaler or retailer that sells differential pressure gauge products	<input type="radio"/>	<input type="radio"/>

Block 5

A. Do you usually wear eyeglasses or contact lenses for normal computer viewing?

- ☐



Yes

☐ No

Block 6

Are you wearing them now?

☐ Yes

☐ No

Block 7

Can you get them?

☐ Yes

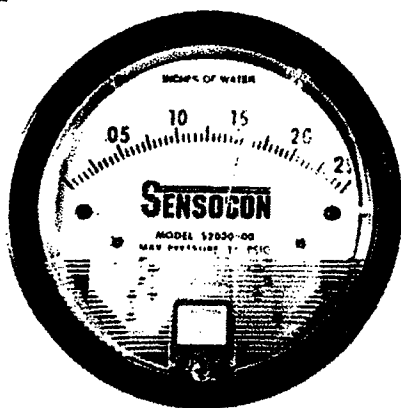
☐ No

Block 8

Which, if any, of these products do you believe are put out by the same company? Please mark the letters below. If you don't know, feel free to mark "don't know".

E

☐

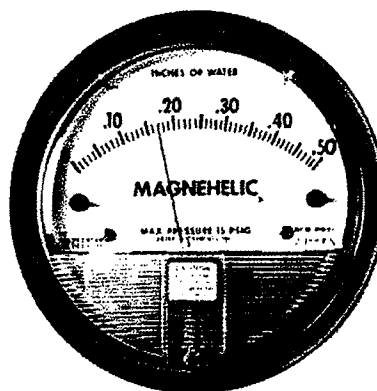


C

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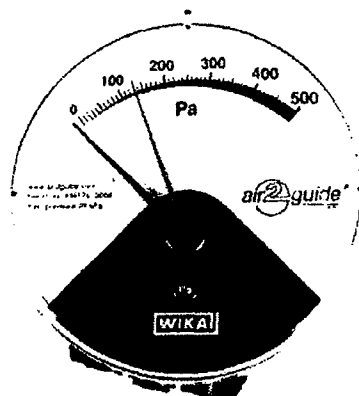
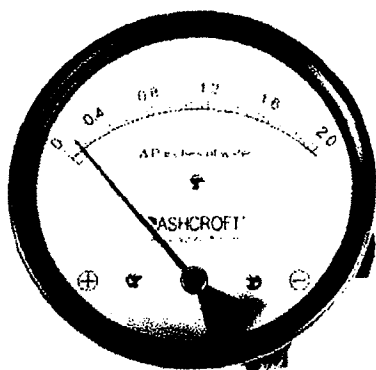
D

☐

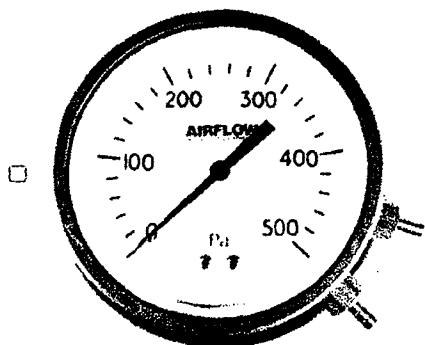


A

☐



B



☐ Don't Know

Block 9

Why?

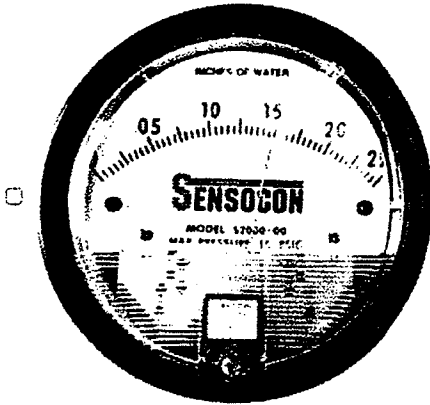
Block 10

Which, if any, of these products do you believe are produced by companies that are associated with one another? Please mark the letters below. If you don't know, feel free to mark "don't know".

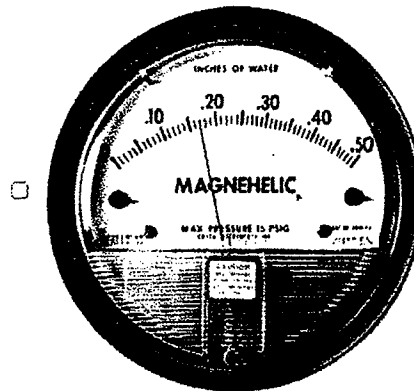
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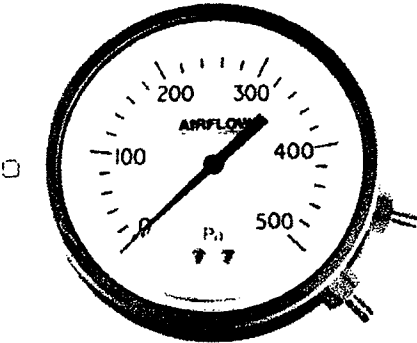
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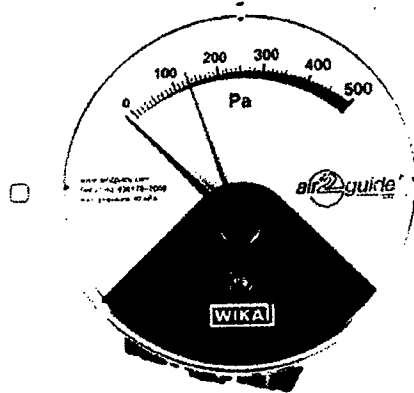
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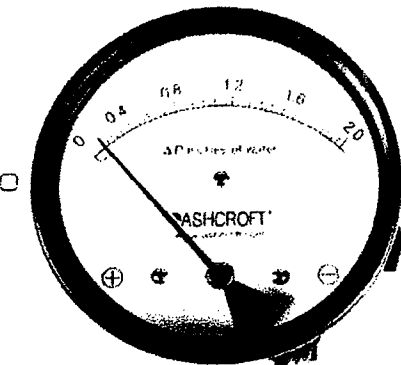
B



A



C



☐ Don't Know

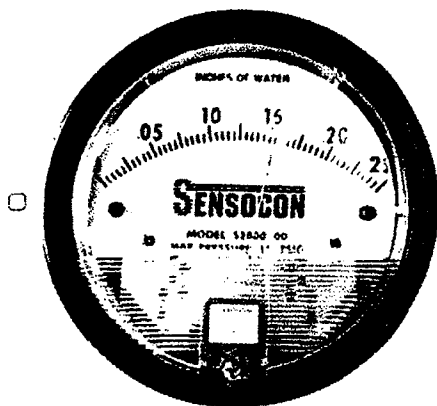
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Why?

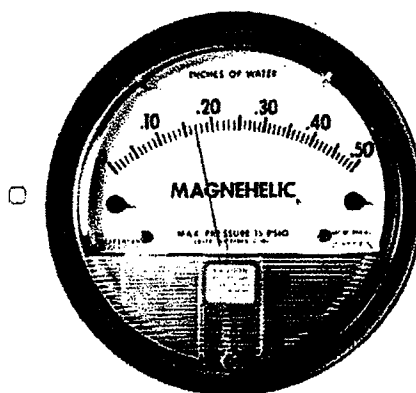
Block 13

Which, if any, of these products do you believe are produced by companies that are affiliated with one another? Please mark the letters below. If you don't know, feel free to mark "don't know".

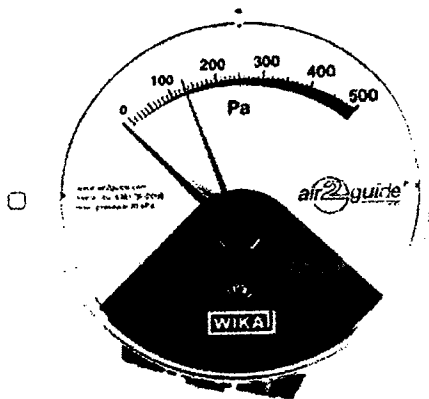
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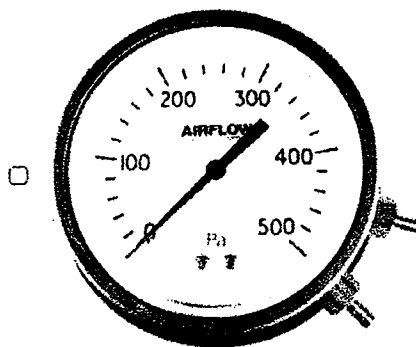
D



A



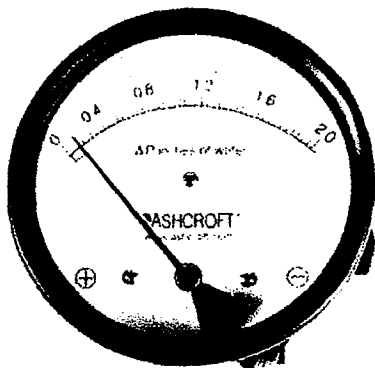
B



C



☐ Don't Know



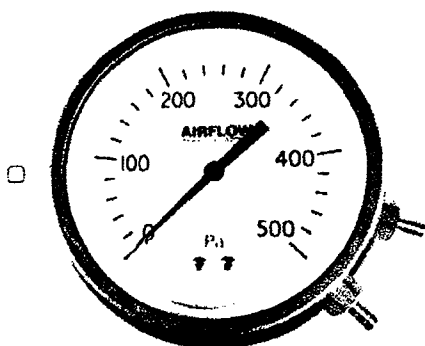
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Why?

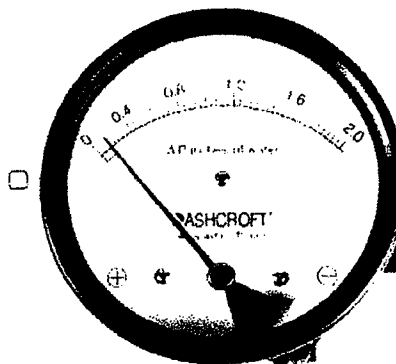
Block 15

Which, if any, of these products do you believe are produced by companies that are sponsored by one another? Please mark the letters below. **If you don't know, feel free to mark "don't know".**

B



C



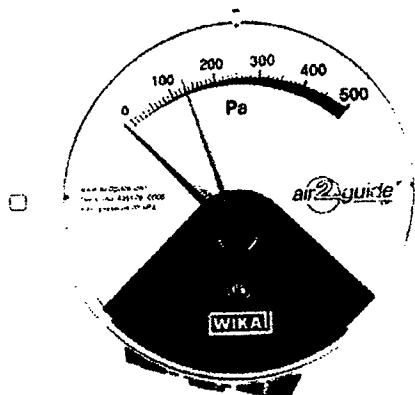
Qualtrics Survey Software

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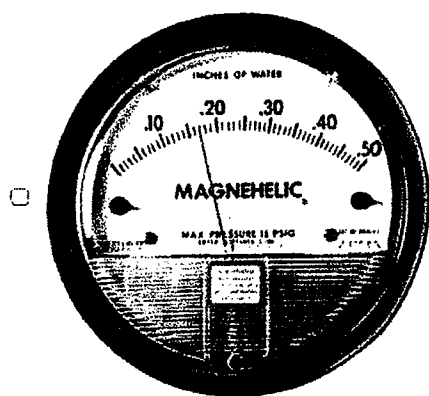
E



A



D



☐ Don't Know

Block 18

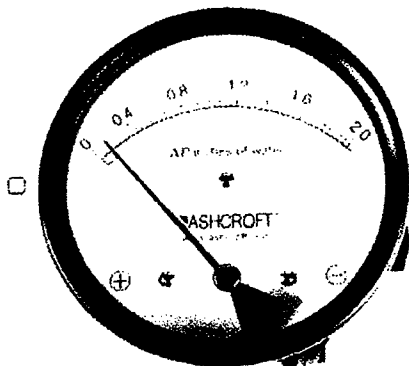
Why?

Block 17

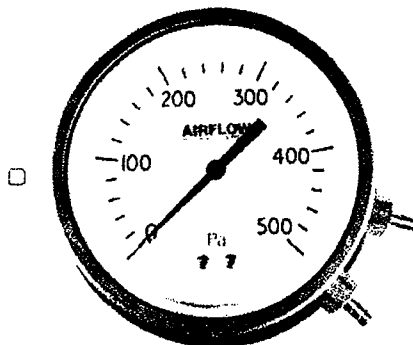
Which, if any, of these products do you believe are produced by companies that are owned by one

another? Please mark the letters below. If you don't know, feel free to mark "don't know".

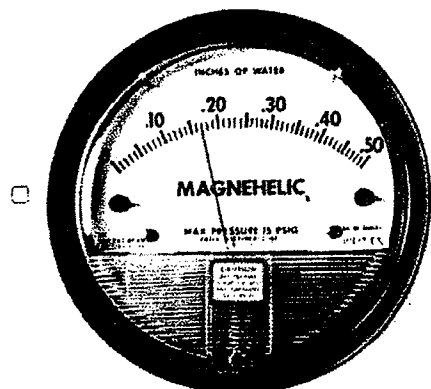
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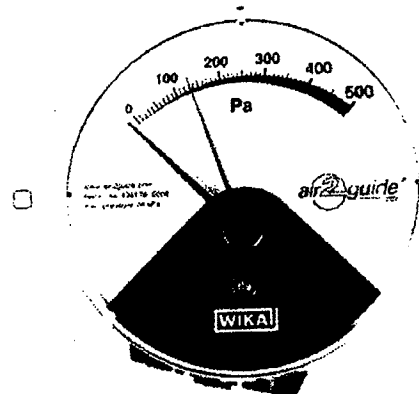
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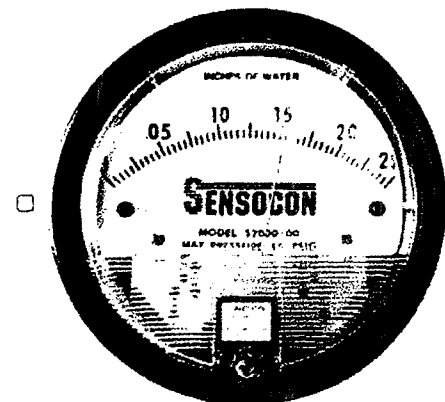
D



A



E



☐ Don't Know

Block 16

Qualtrics Survey Software

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Why?

Block 16

We might contact you to verify you completed this survey. For validation purposes only, please record your name and phone number. (Optional)

Name

Phone

Default Question Block

Before we start the interview, please answer the next few questions to see if you qualify.

Block 1

Are you 18 years old or older?

- ☐ Yes
☐ No

Block 2

Have you purchased a differential pressure gauge product within the last three years?

- ☐ Yes
☐ No

Block 3

Do you anticipate purchasing a differential pressure gauge product in the next 12 months?

- ☐ Yes
☐ No

Block 4

Do you — or anyone in your household — work for...

	Yes	No
A marketing research firm	<input type="radio"/>	<input type="radio"/>
An advertising agency	<input type="radio"/>	<input type="radio"/>
Any industrial distributor, wholesaler or retailer that sells differential pressure gauge products	<input type="radio"/>	<input type="radio"/>

Block 5

A. Do you usually wear eyeglasses or contact lenses for normal computer viewing?

- ☐



Yes

☐ No

Block 6

Are you wearing them now?

☐ Yes

☐ No

Block 7

Can you get them?

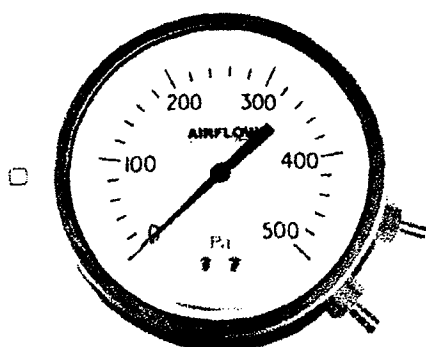
☐ Yes

☐ No

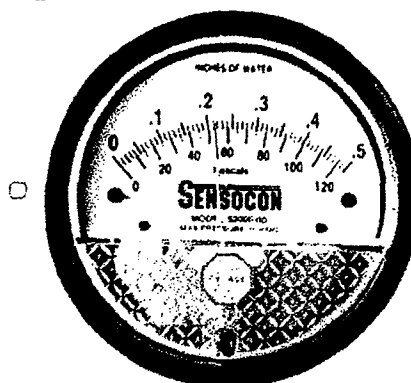
Block 8

Which, if any, of these products do you believe are put out by the same company? Please mark the letters below. If you don't know, feel free to mark "don't know".

B



E



D

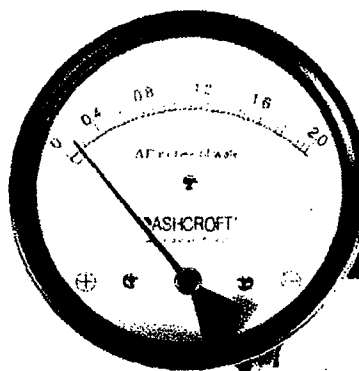
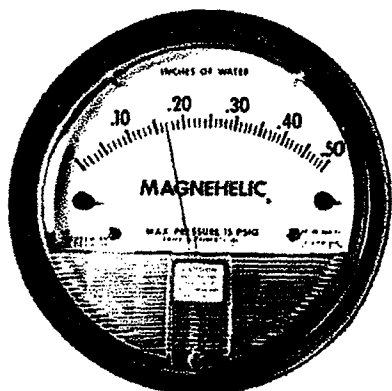


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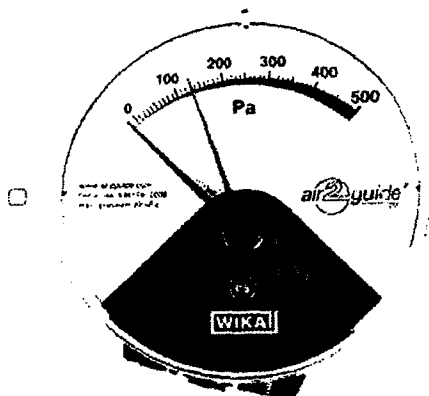


Qualtrics Survey Software

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A



☐ Don't Know

Block 9

Why?

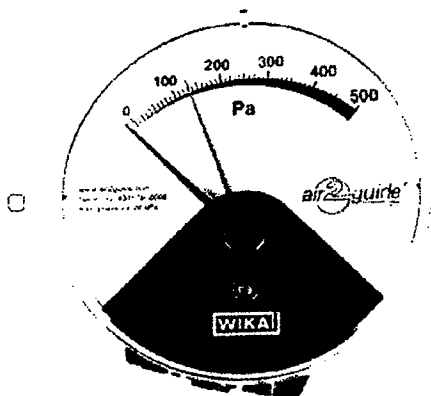
Block 10

Which, if any, of these products do you believe are produced by companies that are associated with one another? Please mark the letters below. If you don't know, feel free to mark "don't know".

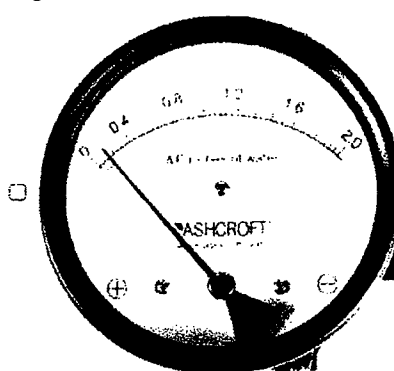
Qualtrics Survey Software

<http://new.qualtrics.com/ControlPanel/PopUp.php?PopType=Su...>

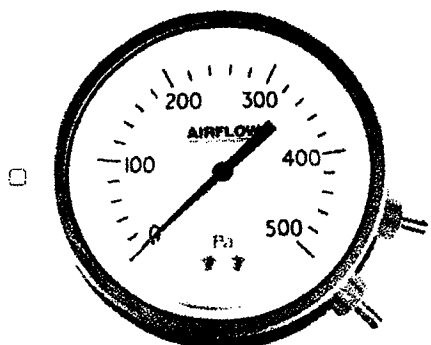
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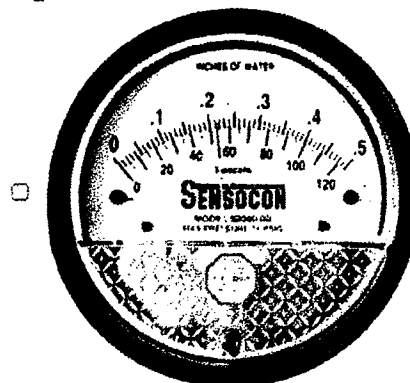
C



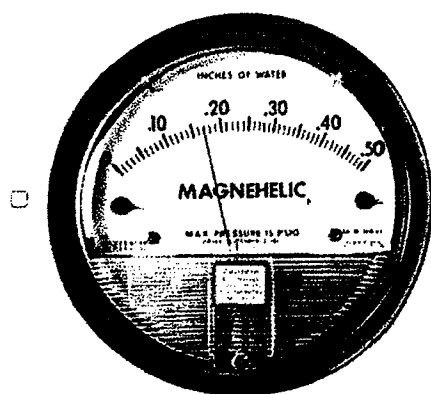
B



E



D



☐ Don't Know

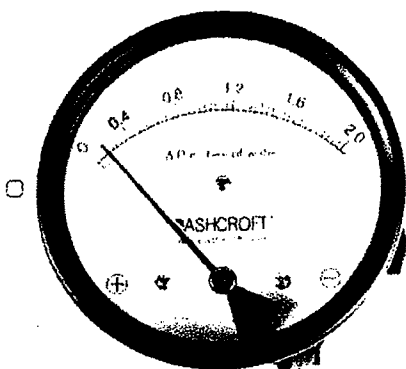
Block 12

Why?

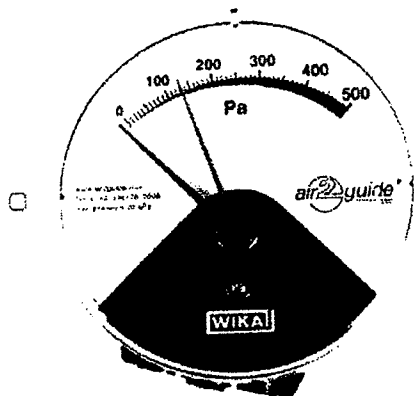
Block 13

Which, if any, of these products do you believe are produced by companies that are affiliated with one another? Please mark the letters below. If you don't know, feel free to mark "don't know".

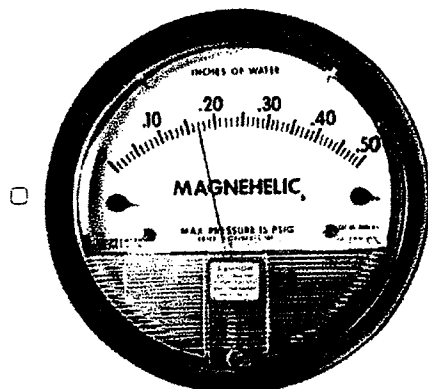
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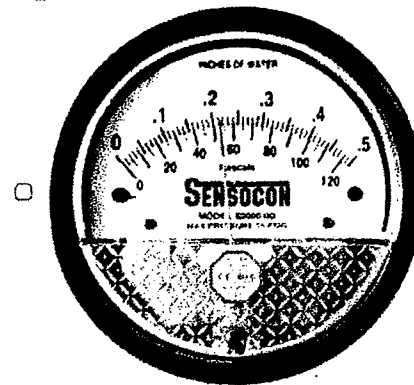
A



D



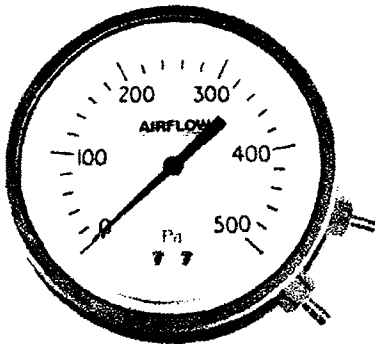
E



B

☐

☐ Don't Know



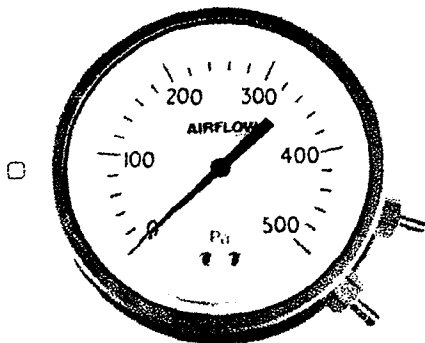
Block 14

Why?

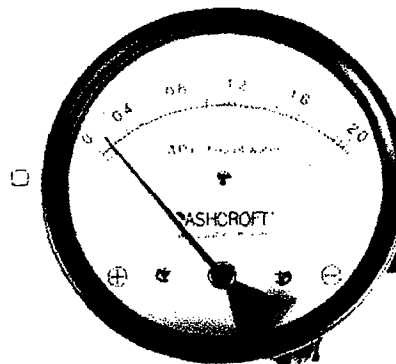
Block 15

Which, if any, of these products do you believe are produced by companies that are sponsored by one another? Please mark the letters below. If you don't know, feel free to mark "don't know".

B



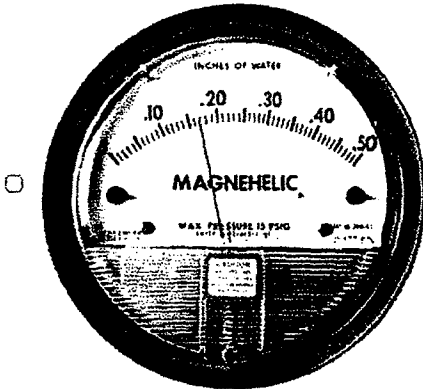
C



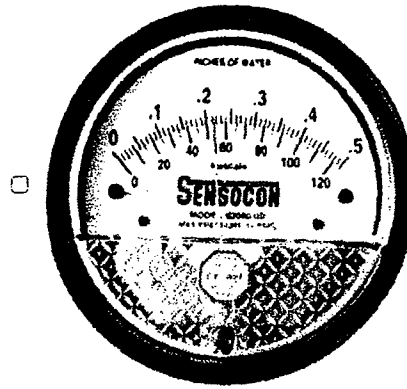
Qualtrics Survey Software

<http://new.qualtrics.com/ControlPanel/PopUp.php?PopType=Su...>

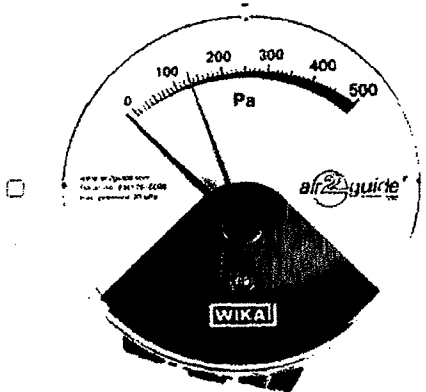
D



E



A



☐ Don't Know

Block 18

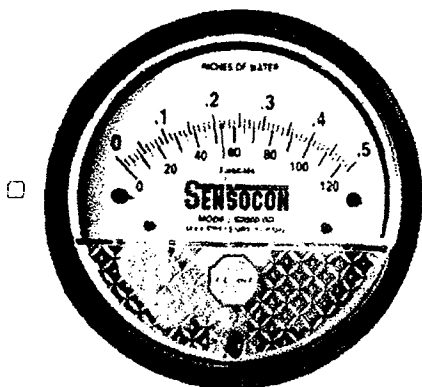
Why?

Block 17

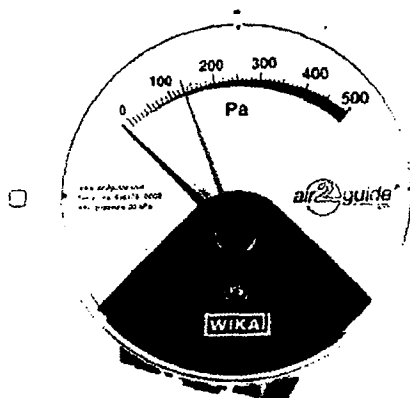
Which, if any, of these products do you believe are produced by companies that are owned by one

another? Please mark the letters below. If you don't know, feel free to mark "don't know".

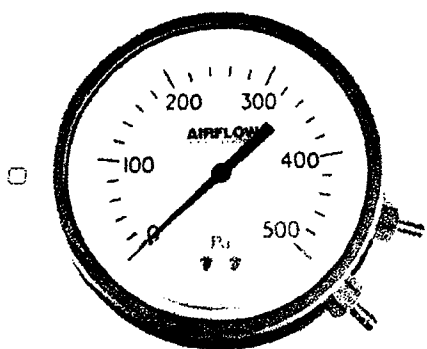
E



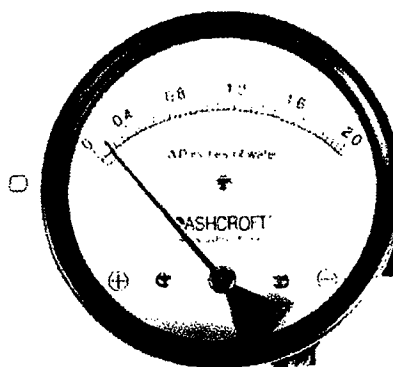
A



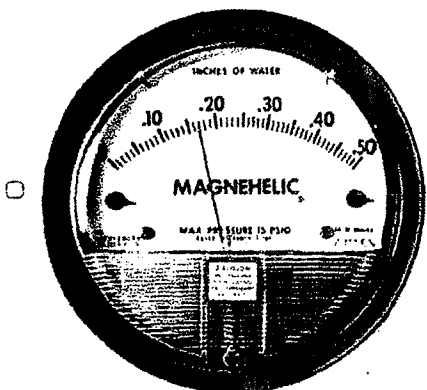
B



C



D



☐ Don't Know

Block 16

Why?

Block 16

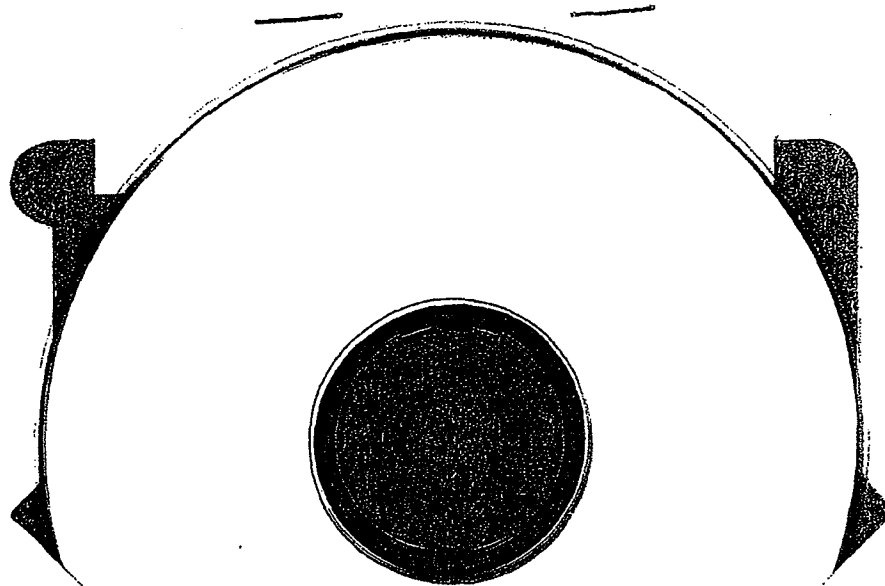
We might contact you to verify you completed this survey. For validation purposes only, please record your name and phone number. (Optional)

Name

Phone

EXHIBIT C

Tabulations of Survey B1 and Survey B2



Amended Report of James T. Berger
July 23, 2010
Exhibit C
Pressure Gauge B1FINAL.xls
Pressure Gauge B2FINAL.xls



PAPERBOARD IS MADE FROM
100% RECYCLED MATERIAL
REORDER E7266

EXHIBIT D

July 17, 2010
Mr. James Berger
1604 Chicago Avenue
Evanston, IL 60201

Dear Jim,

This is to affirm that Suburban Marketing Research has completed the validation of your recent research study on Differential Pressure Gauges.

We received a file of 128 participants in the on-line study, who included their name and phone number. All respondents received at least one day time attempt and one evening attempt.

Among those we reached, we asked everyone if they had recently participated in an on line study about Differential Pressure Gauges, if they were at least 18 years of age, and if they had purchased, or expected to purchase a Differential Pressure Gauge. Finally, we asked if they viewed pictures of Pressure Gauges on line, as part of the study.

The disposition of the people we reached is as follows:

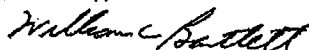
- 51 validated correctly
- 11 completed the interview but had not purchased a pressure gauge and did not expect to
- 4 were the person listed, but said they did not do the survey
- 8 Disconnected phone numbers
- 1 FAX number
- 6 No Such Person at phone number given

The balance of the numbers ended up at answering machines or voice mail boxes.

The eleven people who were not past buyers or future intenders should be removed from the data.

Among the people who completed the survey everyone did it correctly and saw various pictures of pressure gauges. We are satisfied that the survey was administered correctly.

Sincerely,



William C. Bartlett, PRC
President